

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, v. LAMOR WHITEHEAD, Defendant.	Case No. 1:22-cr-00692-LGS NOTICE OF DEFENDANT’S REQUEST FOR IDENTIFICATION OF “VICTIMS” AND “WITNESSES” PER ORDER [8] SETTING CONDITIONS OF RELEASE
---	--

To: HON. DAMIAN WILLIAMS
United States Attorney
Southern District of New York
The Silvio J. Mollo Building
Attn: Hagan Scotten, Esq., Celia Cohen, Esq., and Andrew Rohrbach, Esq. (AUSAs)
One Saint Andrew’s Plaza
New York, New York 10007
VIA CM/ECF

PLEASE TAKE NOTICE THAT Defendant LAMOR WHITEHEAD (“Defendant” or “Bishop Whitehead”) requests the identification¹ of “victims” and “witnesses” pursuant to the Order [8] setting conditions of release. [8] at 8 (“No contact with victims or witnesses[.]”). Defendant notes that a “crime victim” under the Crime Victims’ Rights Act, 18 U.S.C. § 3771(a), is “a person directly and proximately harmed as a result of the commission of a Federal Offense.” 18 U.S.C. § 3771(e)(2)(A). “A witness is a person who saw or heard the crime take place or may have important information about the crime or the defendant.”² Defendant adopts the Government’s definition of a witness. The identification of victims and witnesses is required by Defendant to comply with this Court’s Order [8] setting conditions of release. Defendant cannot fully comply with said Order [8] without a list of the identification of victims and witnesses.

¹ “Identify” or “identification” when used in reference to a natural person means to state his or her: (1) full name; (2) present or last known business and residence addresses and telephone numbers; (3) present or last known official business position; and (4) business affiliation, address and title. “Identify” or “identification” when used in reference to a business entity means to state its: (1) full name; (2) present or last known form of organization (e.g., corporation, partnership); and (3) present or last known address of its principal place of business.

² <https://www.justice.gov/usao/justice-101/discovery#:~:text=A%20witness%20is%20a%20person,in%20court%20is%20called%20testimony.>

Further, only the Government knows the actual identification of its alleged victims and witnesses. Defendant requests the Government promptly provide this information; it is needed immediately. If the Government fails to promptly provide the requested list of alleged victims and witnesses, then Defendant will make an application to the Court to prohibit the Government from introducing such persons or evidence concerning them at trial, pursuant to the provisions of Fed. R. Crim. P. 16(d)(2). Alternatively, Defendant may move for an order for the Government to disclose the list, as Defendant has shown a sufficient need for the information in order to comply with an Order [8]. *See United States v. Cannone*, 528 F.2d 296, 298-300 (2d Cir. 1975). As time is of the essence, if the Government does not immediately provide the list, Defendant may apply for an emergency stay of the conditions of the Order [8] requiring “[n]o contact with victims or witnesses” until such alleged victims and witnesses are fully identified by the Government as requested by Defendant. Upon receipt of this notice, the Government shall produce the list or advise of whether it consents or objects to the anticipated applications that Defendant intends to make pending such production. Defendant reminds the Government of its continuing duty to disclose under Fed. R. Crim. P. 16(c). If the Government has questions or concerns regarding this request or the anticipated applications, its attorneys may promptly contact the undersigned to confer pursuant to Local Criminal Rule 16.1.

Respectfully submitted,

Dated: New York, New York
January 13, 2023

s/ Brian L. Ponder
Brian L. Ponder, Esq. (BP0696)
BRIAN PONDER LLP
TRIAL LAWYERS
745 Fifth Avenue, Suite 500
New York, New York 10151-0099
Telephone: (646) 450-9461
Facsimile: (646) 607-9238 (not for service)
Email: brian@brianponder.com (not for service)
ATTORNEY FOR DEFENDANT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, Plaintiff, v. LAMOR WHITEHEAD, Defendant.	Case No. 1:22-cr-00692-LGS CERTIFICATE OF SERVICE
---	---

I certify that a copy of the foregoing was served upon all parties via CM/ECF.

Respectfully submitted,

Dated: New York, New York
January 13, 2023

s/ Brian L. Ponder
Brian L. Ponder, Esq. (BP0696)
BRIAN PONDER LLP
TRIAL LAWYERS
745 Fifth Avenue, Suite 500
New York, New York 10151-0099
Telephone: (646) 450-9461
Facsimile: (646) 607-9238 (not for service)
Email: brian@brianponder.com (not for service)
ATTORNEY FOR DEFENDANT